

REMARKS

Claims 1, 3-17, and 35 are pending. Claim 2 is canceled herein; claims 18-34 and 36 were previously canceled. Claims 1, 5, 7, 11, and 17 have been amended. Support for the amendments to claim 1 can be found throughout the specification. The amendments to claims 5, 7, and 11 merely serve to more particularly point out and distinctly claim the instant invention. The amendment to claim 17 merely serves to remove a typographical error inadvertently introduced in Applicants' response dated November 23, 2004. No new matter has been added as a result of above described amendments.

Claim Rejections – 35 U.S.C. §112, first paragraph

The Office Action has rejected claims 1-17, and 35 under 35 U.S.C. §112, first paragraph, under the assertion that the specification does not reasonably provide enablement for the selective solubilization of triglyceride-containing lipoprotein with a nonionic surface active agent synthesized from a block copolymer of propylene oxide and ethylene oxide.

Applicants respectfully traverse these assertions for the reasons made of record in their Response dated November 23, 2004. Nevertheless, solely in order to expedite the instant application to allowance, Applicants have amended Claim 1 to recite "low density lipoprotein."

As the Office Action has acknowledged, the specification is enabling for the determination of triglyceride content of LDL (Office Action, line 2 of paragraph 4). Thus Applicants respectfully request that the rejection of Claims 1-17, and 35 under 35 U.S.C. §112, first paragraph, be withdrawn.

Claim Rejections – 35 U.S.C. §112, second paragraph

The Office action has rejected claims 1-17, and 35 under 35 U.S.C. §112, second paragraph, under the assertion that they are indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. Specifically, the Office Action asserts that Claim 1 is unclear as to what Applicants are determining in triglyceride.

Applicants respectfully disagree with the rejection. Lipoprotein is known to be “contained” in LDL. For example, McKeone, B.J., *et al*, *Plasma Triglycerides Determine Low Density Lipoprotein Composition, Physical Properties , and Cell-specific Binding in Cultured Cells*, J. Clin. Invest. (1993) 91:1926-1933 (“Exhibit A,” hereto), teaches that “[t]he core of LDL is one putative source of lipid deposits in atherosclerotic plaques. The LDL particle consists of a hydrophobic core of cholesterol, cholesterol ester and triglyceride, with a surface composed primarily of amphiphilic phospholipids, cholesterol, and apoB-100 Elevated plasma ...VLDL triglyceride increase[s] the triglyceride content of LDL in a process mediated by the action of plasma lipid-transfer proteins.” Introduction, p. 1926 (internal citations omitted). Thus, it is known that the triglycerides are complexed with lipoproteins so that the hydrophobic lipids are located in the inside, or contained in, lipoprotein particles.

Accordingly, triglycerides are known to be “contained” in LDL. Triglycerides are shielded from the aqueous surrounding and thus are not accessible for enzymatic processing. As described in the specification, the use of POP-POE as a non-ionic surface active agent allows for the selective solubilization of LDL, so that the triglyceride originally contained in the LDL is made accessible and reactive in a determination procedure. *See, e.g.*, page 3, line 30 – page 4, line 22. Because the specification appropriately describes, consistent with the ordinary meaning

in the art, that triglyceride is "contained" in LDL, Applicants respectfully request reconsideration and withdraw of their rejection under U.S.C. §112, second paragraph.

Claim 5 stands rejected under 35 U.S.C. § 112 as indefinite because the unit of measurement of molecular weight is missing. Applicants have amended claim 5 to insert the term "Daltons." While "Daltons" is not specifically mentioned in the specification, one of skill in the art would readily understand that the units of the molecular weight of the polymers described in the specification would be Daltons.

CONCLUSION

Applicants respectfully submit that in view of the above amendments and remarks, all conditions of patentability are met in the pending claims and therefore respectfully request allowance.

If the Examiner believes it to be helpful, the Examiner is invited to contact the undersigned representative by telephone at (312) 913-0001.

Respectfully submitted,

McDonnell Boehnen Hulbert & Berghoff LLP

By: 

Patrick G. Gattari

Reg. No. 39,682

MCDONNELL BOEHEN HULBERT & BERGHOFF LLP
300 South Wacker Drive
Chicago, Illinois 60606
tel 312-913-0001
fax 312-913-0002